**Hobbs & Oberg Mining Company, Inc., International Chemical Company, and Eastoak Coal Company, Joint Employers *and* Oklahoma Coal Miners Union.** Case 17–CA–16407

February 28, 1995

## SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS STEPHENS, COHEN, AND TRUESDALE

On January 31, 1990, the National Labor Relations Board issued a Decision and Order in this proceeding,[1] directing Hobbs & Oberg Mining Company, Inc., International Chemical Company, and Eastoak Coal Company, Respondent joint employers, inter alia, to make whole employees for their losses resulting from the Respondents' unfair labor practices. The United States Court of Appeals for the Tenth Circuit enforced the Board's Order in its entirety on August 14, 1991.[2] A controversy having arisen over the amount of backpay due under the terms of the Board's Order, as enforced by the court of appeals, the Regional Director for Region 17 issued a compliance specification and notice of hearing on September 21, 1993. Respondent Hobbs & Oberg filed an answer and Respondents International Chemical Company and Eastoak Coal Company filed an answer and an amended answer. A hearing was held on December 14, 1993, before Administrative Law Judge Elbert D. Gadsden.

On July 27, 1994, the administrative law judge issued the attached supplemental decision. Respondents International Chemical Company and Eastoak Coal Company filed exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached supplemental decision in light of the exceptions and brief and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order.

Respondents International Coal Company (ICC) and Eastoak Coal Company (ECC) except to the judge's finding that they are obligated to make whole Hobbs & Oberg (H&O) employees who were on layoff when ICC and ECC took over H&O's mining operation at the end of May 1987. Respondents ICC and ECC contend that it would be inequitable and punitive to require them to make whole these employees of whom they had no knowledge either when they took over the operation or thereafter. Respondents ICC and ECC further contend that the judge erred by relying on the joint employer relationship found to exist between ICC, ECC, and H&O to impute H&O's knowledge of these laid-off employees to ICC and ECC. In this regard, ICC and ECC contend that the judge's reliance on *Emsing's Supermarket*, 299 NLRB 569, 571 (1990), is misplaced because that case involved single employers where ''[i]mputing one single employer's knowledge to the other is justified'' because the two entitites are considered a ''single integrated enterprise.'' By contrast, because the joint employer theory assumes that two companies are independent legal entities, the Respondents assert that it would be unreasonable to assume that one joint employer would be aware of the other's employment matters, particularly those that arose before the joint employer relationship was created. Finally, Respondents ICC and ECC contend that their lack of knowledge is analogous to a successor's lack of knowledge of a predecessor's unfair labor practices. They contend, in effect, that since the Board does not hold a successor liable to remedy a predecessor's unfair labor practices of which it has no knowledge, the Board should not require ICC and ECC to make whole the H&O employees who were on layoff when they took over H&O's mining operation. We disagree.

First, ICC and ECC are wrong in suggesting that they are akin to successors of H&O, since it was established in the underlying proceeding that all three were joint employers and that their status as such continued even after ICC and ECC took over the mining operation. Second, it was established in the underlying proceeding that all three engaged in an unlawful scheme to oust the Union, and all three are named in the underlying order which was enforced by the court of appeals. Thus, the arguments of ICC and ECC are essentially an impermissible untimely attack on the unfair labor practice order. We also note that in view of findings of the joint participation in the scheme, the underlying order was entirely consistent with the Board's recent decision in *Capitol EMI Music*, 311 NLRB 997 (1993).

Finally, Respondents ICC and ECC except to the judge's finding that they are obligated to reinstate and make whole employees Dean and Walker. The Respondents contend that because those employees' jobs were eliminated when the Respondents converted from a dragline to a dozer-scraper operation, Dean and Walker are not entitled to reinstatement. We find this argument without merit. The Respondents overlook the fact that in the underlying proceeding the Board specifically found that Dean and Walker were unlawfully terminated in violation of Section 8(a)(3) and were therefore entitled to reinstatement and backpay. We reject the Respondents' attempt to relitigate this issue at the compliance stage of the proceeding. See, e.g., *Baumgardner Co.*, 298 NLRB 26, 27–28 (1990).

[1] 297 NLRB 575.

[2] No. 90-9523 (unpublished).

## ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondents, Hobbs & Oberg Mining Company, Inc., International Chemical Company, and Eastoak Coal Company, joint employers, Tulsa, Oklahoma, their officers, agents, successors, and assigns, shall take the action set forth in the Order.

*Francis A. Molenda, Esq.*, for the General Counsel.
*Thomas F. Birmingham, Esq. (Birmingham, Morley, Weatherford & Priore)*, of Tulsa, Oklahoma, for the Respondent.
*Stephen Andrew, Esq. (McCormick, Andrew & Clark)*, of Tulsa, Oklahoma, for the Charging Party.

## SUPPLEMENTAL DECISION

### STATEMENT OF THE CASE

ELBERT D. GADSDEN, Administrative Law Judge. This proceeding is initiated pursuant to a Decision and Order of the National Labor Relations Board in Case 16–CA–13286 on January 31, 1990, directing Respondents Hobbs & Oberg Mining Company, Inc., International Chemical Company, and Eastoak Coal Company to take the action set forth in the Board's Order described as pertinent here as follows:

On request, bargain with Oklahoma Coal Miners Union (the Union) as the exclusive representative of the employees in the appropriate bargaining unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement. The unit consists of:

> All production and maintenance employees employed at the company's mine in the United States, excluding all salaried supervisors, office clerical employees, guards and supervisors as defined in the Act.

Offer all bargaining unit employees terminated on May 31, 1987, immediate and full reinstatement to their former jobs, or, if those jobs no longer exist, to substantially equivalent positions. Do this without prejudice to their seniority or any other rights or privileges previously enjoyed. Discharge, if necessary, any employees hired in the interim.

Make the bargaining unit employees whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, and as a result of the repudiation of the collective-bargaining agreement, in the manner set forth in the Board's decision modifying the remedy.

The Board's Order having been enforced by the U.S. Court of Appeals for the 10th Circuit on August 14, 1991, on or about September 21, 1993, the Board issued the compliance specification and notice of hearing here, with Exhibits 1, 2, and 3 attached thereto.

Respondents International Chemical Company and Eastoak Coal Company filed an answer to the compliance specification on October 28, 1993, and an amended answer on the same date, stating that they do not dispute the allegations set forth in paragraphs 1 through 7 of the compliance specification, and conceding that the only issue presented for determination is the amount of backpay and medical expenses, if any. Respondents also concede that the backpay period, if any, is between June 1, 1987, and February 1988.

However, Respondents dispute that there are two major categories of individuals entitled to backpay, as alleged in paragraph 2 of the compliance specification.

Without admitting any backpay liability to employees set forth in paragraph 3, Respondents contend that the method of computing the backpay is correct, except that it denies the computation of backpay for Robert Williams is correct, since Williams quit his employment October 29, 1987.

Respondents dispute that the second major group of employees and the first and second subgroups of the major group in paragraph 5 are entitled to backpay, because Respondents have not been given any information on interim earnings for them. Respondents contend that the individuals set forth in paragraph 7 of the compliance specification should not be included in the second subgroup of the major two groups because Respondent had no knowledge that Hobbs & Oberg had any employees on layoff until the commencement of the instant proceeding; and they had no way of confirming that the allegations on interim earnings set forth in paragraph 7 are true. Therefore, Respondents deny that they are true. Consequently, Respondents also dispute the allegations in paragraph 8 of the compliance specification.

Respondents deny that Carl Jones incurred medical expenses of $554.83 plus $416.13 alleged medical expenses, and $138.07 for 1 month insurance; and they contend Jones was not entitled to medical expenses under the collective-bargaining agreement. Consequently, they argue that the computation set forth by the Board on the above matters in paragraph 13 are incorrect because they are based on erroneous assumptions.

Respondents further affirmatively allege that the Union never demanded bargaining with Eastoak Coal Company; that the Union was obligated under the collective-bargaining agreement to file a grievance prior to litigation; that the Union did not notify Respondents that any of the employees were on layoff and that such employees are thereby, not entitled to backpay or medical expenses. Moreover, they are estopped from asserting such claim because under the terms of the collective-bargaining agreement, the Respondents had the right to determine the means and methods of operating the mine and they were free to subcontract work; that pursuant to such contractual authority, Eastoak changed from a dragline to a dozer-scraper operation, requiring employees classified as welder, electrician, mechanic, dragline operator, and other classifications; that the Union consented to the reduction in wage rate by not filing a grievance over the operational changes made by Eastoak; and that if liability exists, it is against Eastoak and not International Chemical Company, because there is no evidence that the latter two are joint employers.

However, it is particularly noted that all of Respondents' contentions in the latter paragraph ignore counsel for the General Counsel's argument, and the legal reality that the Board, upheld by the court of appeals, found that Respondents are joint employers, and as such, repudiated the collective-bargaining agreement under which they now claim rights to make changes in operation of the mine. However, the joint employers issue has been well litigated and cannot and was not relitigated in this proceeding.

Consequently, a controversy having arisen over the amount of backpay and reimbursement for medical expenses due employees under the terms of the Board's Order of September 21, 1993, as enforced by the Court of Appeals for the 10th Circuit, the Regional Director for Region 17 issued this compliance specification, alleging that the backpay and reimbursement for medical expenses due under the terms of the Board's Order of September 21, 1993, is as follows:

Hobbs & Oberg Mining Company, Inc., International Chemical Company, and Eastoak Coal Company, Joint Employers (the Respondents) their officers, agents, successors, and assigns shall jointly and severely make the required payments to the individual employees under the Board's Decision and Order, as enforced, by paying the following amounts, plus interest at the appropriate rate, subject to the accrual of additional interest until payment is effectuated:

| *Employee* | *Total Due* |
|---|---|
| Mike Armstrong | $3482.27 |
| Kenneth Dailey | 1510.95 |
| Bobby Houtz | 1614.00 |
| Albert Jones | 2068.08 |
| Carl Jones | 7881.28 |
| Frank Linzy | 1718.44 |
| Wesley Qualls | 1158.51 |
| Philip Thomas | 2171.33 |
| Robert Williams | 2207.27 |
| Donnie Keele | 1705.19 |
| Kenneth Owens | 3541.82 |
| John Radaich | 4569.26 |
| Earl Franklin | 2088.00 |
| James Hilburn | 3517.94 |
| Johnny Paul Howe | 6972.26 |
| Mike Stockton | 6284.51 |
| Lynn Heller | 9976.01 |
| Stanley O'Dell | 8292.00 |
| Clifton Walker | 10,440.00 |
| Homer Johnson | 3520.75 |
| Terry Dean | 8667.83 |
| Lester Lee | 2187.89 |
| Art Ballard | 3370.64 |
| Herb Tullos | 677.86 |
| Gene Lemley | 3266.53 |
| Kelly Grooms | 1814.26 |
| Charles Smith | 1163.89 |
| Robert Windler | 856.14 |
| Alvin Linzy | 1891.46 |
| Mark Radaich | 1258.21 |
| Gregg J. Blake | 570.89 |
| Steve P. Howe | 1643.49 |

The compliance hearing in the above matter was held before me on December 14, 1993, in Tulsa, Oklahoma. International Chemical Company appeared at the hearing through the representation of Stephen Andrew, Esquire. Although Hobbs & Oberg Mining Company, Inc. filed an answer here, it did not appear and was not represented at the hearing. Briefs have been received from counsel for the General Counsel and counsel for the Respondents, International Chemical Company and Eastoak Coal Company, respectively, which have been carefully considered. Since Respondent Hobbs & Oberg did not appear at the hearing and did not submit a posthearing brief in this matter, I find that Hobbs & Oberg offered no defense to the specifications as alleged.

On the entire record in this case, including my observation of the witnesses and my consideration of the briefs, I make the following

## FINDINGS OF FACT

### I. DISPUTING OR QUESTIONING SPECIFICATION

There is no dispute that the relevant backpay period involved commenced on June 1, 1987, and ended February 29, 1988, a period of 9 months when the joint employer relationship among the Respondents ended. The backpay involved resulted from the Respondents' repudiation of the collective-bargaining agreement and shutdown of the mine on May 31, 1987, affecting the employment of 32 discriminatee-employees in 3 groups. The first group consists of 11 individuals who were reinstated by Respondents but paid a lower wage rate than the repudiated collective-bargaining agreement specified. Consequently, under the Board's formula, they are entitled to the difference between what should have been received under the agreement, and what they were in fact paid.

The specification alleges that three of the same individuals were reinstated after some delay and are thereby entitled to additional backpay along with those discriminatees in the second group, as described in attached Exhibit 1.

The second group of 13 employees were terminated by the Respondents on May 31, 1987, but were never reinstated or offered reinstatement. For this group of individuals, the credited testimony (Compliance Officer Fetsch) established that these employees should receive what they would have earned at the mines between June 1, 1987, and February 29, 1988, and applying the Board's quarter formula applicable to interim earnings, if any. The three employees in the first group whose reinstatement was delayed should receive backpay for the period of delay, in addition to what they receive from the difference between the collective-bargaining wage rate required and what they were actually paid, as described in attached Exhibit 2.

The General Counsel contends that the third group of discriminatees consist of individuals who were on layoff status at the time Respondent repudiated the agreement and shut down the mine on May 31, 1987. There were 11 individuals in the group who were never offered reinstatement or in fact reinstated, and are entitled to backpay under a Board's formula, which takes into account their previously laid-off status. That is, since they would not have worked unless the weekly work force grew to a number (11) that would allow for their recall, they would be entitled to backpay on the probability that they would have been recalled to work during those particular weeks, as described in 1d, paragraphs 7–8 and attached Exhibit 2.

According to testimony of Compliance Officer Fetsch, employee James Hilburn was terminated May 31, 1987, and he sought retirement after September 1987, and his backpay was limited accordingly. James Mashburn was on medical leave throughout the backpay period and therefore was not entitled to backpay. Fetsch said Carl Jones incurred medical expenses during the backpay period and it was determined he was entitled to reimbursement for those expenses, in addition to backpay.

Compliance Officer Fetsch testified he was not aware that Hobbs & Oberg strip mining operation was done by the dragline method of operation, which Eastoak Coal Co. did not utilize. In June 1987, Eastoak Coal commenced operating five scrapers, three dozers, and two frontend loaders, working their crews four 10-hour days, and the crew would be off for 4 days while another crew worked, for perpetual operation of the mine. However, these changes were implemented after Respondents repudiated the contract. There was very limited overtime. Thus, all 11 employees including Armstrong would have worked under the unchanged mining methods. The number of employees working between June 1987 and February 1988 varied between 9 and 27, with approximately 17 to 18 working most frequently.

Finally, Compliance Officer Fetsch testified that during the backpay period (June 1, 1987—February 29, 1988) Respondents employed between 9 and 27 employees in any given week. Thus, Fetsch stated it was properly assumed that employees desired reimbursement and it was Respondents' obligation to offer them reinstatement. Consequently, Officer Fetsch determined backpay according to the Board's standard procedure for calculating backpay.

The only evidence Respondents presented in response to the compliance specification was the testimony of International Chemical Company's vice president, Larry Yeagley, who testified he instructed Mine Officials Ron Sisney and Larry Blevins to make sure that applications from discriminatees for employment would be properly completed. Yeagley identified certain applications from discriminatees for employment. The application of Mike Armstrong contained a notation ''did not want to come back''; a notation on the application of Carl Jones ''did not come back . . . took another job''; and a notation on Stanley O'Dell's application indicated hired 6/19/87, contract mechanic, $16, all of which notations Yeagley testified he recognized as the handwriting of Ron Sisney. However, neither Sisney nor Larry Blevins testified in this proceeding and the hearsay testimony of Yeagley about notations on the applications was not substantiated. The notation on Armstrong's application was specifically and credibly denied by him.

Only Mike Armstrong was called by Respondents and testified he was eventually reinstated by Respondents July 25, 1987. When asked by Respondents' counsel whether he informed Respondents during an interview that he ''did not want to come back to work in the mine,'' Armstrong denied he was interviewed by Respondents or that he made such a statement to Respondents. He said he would not have told Respondents he did not want to come back to work because he needed a job and the health insurance, since his wife had just given birth to a baby.

Respondents did not present any credible evidence to refute the compliance formula or the computation set forth in the compliance specification as explained by Compliance Officer Fetsch.

## Analysis and Conclusions

Respondents' defense to the compliance specification does not primarily challenge the mathematical computations nor the accuracy of the premises on which they were made by the compliance officer. Instead, Respondents' arguments rely on the language of the collective-bargaining agreement which provided, that the employer has the right to determine the means, methods, and procedures to be used in operating the mine; that Respondents, as employers, exercised that right by changing the mine operations from dragline to a dozer, scraper, front-end loader operation, which eliminated the need for some classifications of workers; and that the compliance specification includes some of the workers who were no longer needed as a result of the change from dragline to dozer-scraper operation.

Respondents further contend that the Union did not file any grievances over the elimination of the above-described job classifications, or the new job classifications, and Respondents did not have an opportunity to engage in arbitration about these changes.

While Respondents' contentions about contract provisions may be correct, it is particularly noted, as pointed by counsel for the General Counsel, that Respondents raised some of these defenses and arguments during the hearing in the original proceeding, and the administrative law judge's decision, affirmed by the Board, and the Board's Order upheld and enforced by the court of appeals, specifically found that the Respondents were joint employers, and were jointly and severely liable for any backpay arising from their unlawful repudiation of the contract and discrimination against the employees. Consequently, the Respondents were ordered to cease and desist from making unilateral changes in working conditions, by subcontracting bargaining unit work, and thereby repudiating the collective-bargaining agreement and refusing to recognize and bargain with the Union. Moreover, the Board held that Respondents repudiated the collective-bargaining agreement when they stopped using the classified workers who were eliminated by the change in the operation of the mine. *Hobbs & Oberg Mining Co.*, 297 NLRB 575, 592 (1990).

However, since Respondents' arguments are based on issues they previously raised or should have raised and litigated in the unfair labor practice proceeding, which were ruled on and affirmed by the Board, they cannot now relitigate these issues in an effort to exonerate themselves from established liability in this compliance proceeding. *Workroom for Designers*, 289 NLRB 1434, 1439 (1988); *EDP Medical Computed Systems*, 293 NLRB 857 (1989).

Although Respondents claimed they had no knowledge of the fact that some employees of Hobbs & Oberg were on layoff, such lack of knowledge on their part does not exempt them from their joint employer status, and their attendant joint and several liability to the laid-off employees. Under such circumstances ''knowledge'' of the laid-off employees is imputed to the Respondents as joint employers. *Emsing's Supermarket*, 299 NLRB 569, 571 (1990).

At the trial here Respondents tried to show that some classified and other laid-off employees were notified by Respondents through posted notices of job availabilities that Respondents were accepting applications for employment; and that many employees included in the compliance specification did not apply for work on or after June 1, 1987. Respondents also tried to show that it interviewed and made telephone calls to some discriminatees to inquire of their interest in coming to work. Respondents did not present any former employees or witnesses who testified they were called, or were interviewed and offered a job by Respondents.

It is especially noted that Respondents did not present any evidence that it made written or verbal job offers to any of the discriminatees listed in the backpay specification. Board law is clear that an employer Respondent who has unlawfully discriminated against employees must unconditionally offer the discriminatees reinstatement to their former position or, if such position does not exist, to substantially equivalent ones. *Chase National Bank*, 65 NLRB 827, 829 (1946). Thus, Respondents failed to present any evidence that they made any offers of employment to the discriminatees here involved. Certainly posting a notice of job availability or calling discriminatees on the telephone and asking them if they are interested in work is not unconditionally offering discriminatees employment.

Although Respondents called one discriminatee (Mike Armstrong) in an effort to have him testify with respect to a notation on his application for employment, that he said ''I do not want to come back to work,'' Armstrong unequivocally and emphatically denied that he ever told any member of the Respondents he did not want to return to work. Consequently, the Respondents did not present any evidence challenging the calculations on interim earnings or reimbursement for medical expenses. Having failed to controvert these calculations or the premises on which they are based with credited evidence, there is no issue presented with respect to them for resolution. *Hansel Bros. Enterprises*, 313 NLRB 599 (1933).

Respondent International Chemical's vice president, Yeagley, testified that there was a mine plan to extract the coal by a dozer, frontend loader, and scraper operation. He said they had three dozers, four scrapers, two frontend loaders, totaling nine pieces of equipment, one oiler, a support crew, foreman, and superintendent as salaried individuals. They also had a parts runner, secretary, and assistant clerical support. The mine plan remained in operation from June 1987 to February 1988.

Respondent Eastoak Coal Company's answer to the specification maintains that it had the right to determine the means of not operating the mine just as Hobbs & Oberg operated it.

Notwithstanding, Respondents did not negotiate or speak with the Union about their change in operation, Respondent Eastoak cannot now raise and litigate or relitigate this issue when it did so, or should have done so in 1988 when the Board found Respondents were joint employers and had repudiated the contract.

Respondents also argue that they were found joint employers and as such, nevertheless had the right to determine the means of mine operation and subcontract work. Respondents admit they did not make this argument at the original trial because they said the remedy issue was left for compliance. However, an issue of joint employer status is not an issue for compliance but for the unfair labor practice proceeding where Respondents did litigate that issue.

The General Counsel points out that the Board's Order, as specifically enforced by the court, provides Respondents must cease and desist from subcontracting bargaining unit work and refusing to recognize and bargain with the Union, or making unilateral changes in wages, hours, terms, and conditions of employment of unit employees. The Board then concluded that Respondents repudiated their agreement when they stopped using certain classified positions of unit workers, or using the dragline operation.

The testimonial evidence does not present any significant credibility issues for determination, and the extent to which any may have been raised, I credit the accounts of Compliance Officer Fetsch and discriminatee Armstrong over that of Respondent's vice president, Yeagley, because I was persuaded by their demeanor and accuracy that their accounts were more creditable than Yeagley's.

I therefore conclude and find on the foregoing credited testimony and the documentary evidence of the figures and computations in the compliance specification, that the parties do not disagree that such figures and computations are not accurate, or that they were not established in accordance with appropriate and correct Board formulas, as they were established to be. I therefore find that the backpay specification is accurate in all respects and issue the following recommended[1]

## ORDER

The Respondents, Hobbs & Oberg Mining Company, Inc., International Chemical Company, and Eastoak Coal Company, joint employers, Tulsa, Oklahoma, their officers, agents, successors, and assigns, shall make the discriminatees listed in Exhibits 1, 2, and 3, incorporated in and appended hereto, whole for wages and medical reimbursements, in accordance with the Board's Order and the court's judgment in this proceeding, by paying to them the amounts set forth opposite their respective names, plus interest accrued on all of these amounts computed in accordance with the formula set forth in the Board's Decision and Order. The Respondents shall make the appropriate deductions from the amounts of any tax withholding required by state and Federal laws.

[1] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

# ATTACHMENTS

*EXHIBIT 1*

| *Yr./Qtr.* | *Reg. Hrs.* | *OT Hrs.* | *Amt. Earned* | *Amt. Paid* | *Difference (Amt. Owed)* |
|---|---|---|---|---|---|
| *AMOUNTS OWED TO FORMER HOBBS & OBERG EMPLOYEES WHO WORKED AT EASTOAK* | | | | | |
| | | | **MIKE ARMSTRONG—**$10.75/Hr. | | |
| 1987/2d | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |
| 1987/3d | 333.5 | - 0 - | $3,585.13 | $3,001.50 | $583.63 |
| 1987/4th | 419.5 | 17.5 | 4,791.82 | 3,966.75 | 825.07 |
| 1988/1st | 265 | 31 | 3,348.63 | 2,772.00 | 576.63 |
| Amount Owed | | | | | $1,985.33 |
| | | | **KENNETH DAILEY—**$10.25/Hr. | | |
| 1987/2d | 48.5 | - 0 - | $497.13 | $436.50 | $60.63 |
| 1987/3d | 439.5 | .5 | 4,512.57 | 3,962.25 | 550.32 |
| 1987/4th | 52 | 10 | 4,786.75 | 4,203.00 | 583.75 |
| 1988/4th | 250 | 2 | 2,593.25 | 2,277.00 | 316.25 |
| Amount Owed | | | | | $1510.95 |
| | | | **BOBBY HOUTZ—**$10.25/Hr. | | |
| 1987/2d | 40 | 19.5 | $709.81 | $758.25 | - 0 - |
| 1987/3d | 456 | 19.5 | 4,973.81 | 4,358.25 | $615.56 |
| 1987/4th | 452 | 31.5 | 5,117.31 | 4,493.25 | 624.06 |
| 1988/1st | 271 | 19 | 3,069.88 | 2,695.50 | 374.38 |
| Amount Owed | | | | | $1,614.00 |
| | | | **ALBERT JONES—**$10.75/Hr. | | |
| 1987/2d | 80 | 1.5 | $884.19 | $740.25 | $143.94 |
| 1987/3d | 435.5 | - 0 - | 4,681.63 | 3,919.50 | 762.13 |
| 1987/4th | 399.5 | - 0 - | 4,294.63 | 3,595.50 | 699.13 |
| 1988/1st | 264.5 | - 0 - | 2,843.38 | 2,380.50 | 462.88 |
| Amount Owed | | | | | $2,068.08 |
| | | | **CARL JONES—**$10.75/Hr. | | |
| 1987/2d | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |
| 1987/3d | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |
| 1987/4th | 197.5 | - 0 - | $2,123.13 | $1,777.50 | $345.63 |
| 1988/1st | 246.5 | - 0 - | 2,649.88 | 2,218.50 | 431.38 |
| Amount Owed | | | | | $777.01 |
| | | | **FRANK LINZY—**$10.25/Hr. | | |
| 1987/2d | 52 | - 0 - | $533.00 | $468.00 | $65.00 |
| 1987/3d | 470.5 | 33.5 | 5,337.69 | 4,686.75 | 650.94 |
| 1987/4th | 472.5 | 30.5 | 5,312.06 | 4,664.25 | 647.81 |
| 1988/1st | 266.5 | 11.5 | 2,908.44 | 2,553.75 | 354.69 |
| Amount Owed | | | | | 1,718.44 |
| | | | **WESLEY QUALLS—**$10.75/Hr. | | |
| 1987/2d | 80 | 3.5 | $916.44 | $767.25 | $149.19 |
| 1987/3d | 425.5 | .5 | 4,582.19 | 3,836.25 | 745.94 |
| 1987/4th | 150.5 | - 0 - | 1,617.88 | 1,354.50 | 263.38 |
| 1988/1st | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |
| Amount Owed | | | | | $1,158.51 |

## ATTACHMENTS—Continued

*EXHIBIT 1*

| *Yr./Qtr.* | *Reg. Hrs.* | *OT Hrs.* | *Amt. Earned* | *Amt. Paid* | *Difference (Amt. Owed)* |
|---|---|---|---|---|---|
| | | | **PHILIP THOMAS—**$10.75/Hr. | | |
| 1987/2d | 47.5 | - 0 - | $510.63 | $427.50 | $83.13 |
| 1987/3d | 444.5 | 10 | 4,939.63 | 4,135.50 | 804.13 |
| 1987/4th | 420.5 | - 0 - | 4,520.38 | 3,784.50 | 735.88 |
| 1988/1st | 260 | 23.5 | 3,173.94 | 2,625.75 | 548.19 |
| Amount Owed | | | | | $2,171.33 |
| | | | **ROBERT WILLIAMS—**$10.75/Hr. | | |
| 1987/2d | 80 | 3.5 | $916.44 | $767.25 | $149.19 |
| 1987/3d | 445.5 | - 0 - | 4,789.13 | 4,014.00 | 775.13 |
| 1987/4th | 437.5 | 9 | 4,848.26 | 4,059.00 | 789.26 |
| 1988/1st | 245 | 9.5 | 2,786.94 | 2,293.25 | 493.69 |
| Amount Owed | | | | | $2,207.27 |
| | | | **DONNIE KEELE—**$10.75/Hr. | | |
| 1987/2d | 40 | 13.5 | $647.69 | $481.50 | $166.19 |
| 1987/3d | 345 | 20 | 4,031.25 | 3,285.00 | 746.25 |
| 1987/4th | 360 | - 0 - | 3,870.00 | 3,240.00 | 630.00 |
| 1988/1st | 93 | - 0 - | 999.75 | 837.00 | 162.75 |
| Amount Owed | | | | | $1,705.19 |
| | | | **KENNETH OWENS—**$10.75/Hr. | | |
| 1987/2d | - 0 - | - 0 - | - 0 - | - 0 - | - 0 - |
| 1987/3d | 396 | 5 | $4,337.63 | $3,631.50 | $706.13 |
| 1987/4th | 496 | - 0 - | 5,332.00 | 4,464.00 | 868.00 |
| 1988/1st | 269 | - 0 - | 2,891.75 | 2,421.00 | 470.75 |
| Amount Owed | | | | | $2,044.88 |

*EXHIBIT 2*

| *Yr./Qtr.* | | *Hours* | *Gross Backpay* | *Interim Earnings* | *Net Backpay* |
|---|---|---|---|---|---|
| *AMOUNTS OWED TO EMPLOYEES WHO WERE TERMINATED OR DELAYED IN RECALL* | | | | | |
| | | | **MIKE ARMSTRONG** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 84 | 903.00 | - 0 - | 903.00 |
| 1987/4th | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| 1988/1st | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| Amount Owed | | | | | $1,496.94 |
| | | | **KENNETH OWENS** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 84 | 903.00 | - 0 - | 903.00 |
| 1987/4th | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| 1988/1st | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| Amount Owed | | | | | $1,496.94 |

*EXHIBIT 2*

| *Yr./Qtr.* | | *Hours* | *Gross Backpay* | *Interim Earnings* | *Net Backpay* |
|---|---|---|---|---|---|
| | | | **CARL JONES** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 372 | 3,999.00 | - 0 - | 3,999.00 |
| 1987/4th | 10.75 | 182 | 1,956.50 | - 0 - | 1,956.50 |
| 1988/1st | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| Amount Owed | | | | | $6,549.44 |
| | | | **JOHN RADAICH** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 372 | 3,999.00 | $900.00 | 3,099.00 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | 2,999.25 | 583.19 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | 1,507.50 | 293.13 |
| Amount Owed | | | | | $4,569.26 |
| | | | **EARL FRANKLIN** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | $469.63 | $124.31 |
| 1987/3d | 10.75 | 372 | 3,999.00 | 3,162.00 | 837.00 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | 2,832.63 | 749.81 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | 1,423.75 | 376.88 |
| Amount Owed | | | | | $2,088.00 |
| | | | **JAMES HILBURN** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 272 | 2,924.00 | - 0 - | 2,924.00 |
| 1987/4th | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| 1988/1st | 10.75 | - 0 - | - 0 - | - 0 - | - 0 - |
| Amount Owed | | | | | $3,517.94 |
| | | | **JOHNNY PAUL HOWE** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 372 | 3,999.00 | $500 | 3,499.00 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | 1,666.25 | 1,916.19 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | 837.50 | 963.13 |
| Amount Owed | | | | | $6,972.26 |
| | | | **MIKE STOCKTON** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 372 | 3,999.00 | $1,427.00 | 2,572.00 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | 1,427.00 | 2,155.44 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | 837.50 | 963.13 |
| Amount Owed | | | | | $6,284.51 |
| | | | **LYNN HELLER** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 372 | 3,999.00 | - 0 - | 3,999.00 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | - 0 - | 3,582.44 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | - 0 - | 1,800.63 |
| Amount Owed | | | | | $9,976.01 |
| | | | **STANLEY O'DELL** | | |
| 1987/2d | $11.25 | 55.25 | $621.56 | - 0 - | $621.56 |
| 1987/3d | 11.25 | 372 | 4,185.00 | $690.00 | 3,495.00 |

*EXHIBIT 2*

| *Yr./Qtr.* | | *Hours* | *Gross Backpay* | *Interim Earnings* | *Net Backpay* |
|---|---|---|---|---|---|
| 1987/4th | 11.25 | 333.25 | 3,749.06 | 690.00 | 3,059.06 |
| 1988/1st | 11.25 | 167.50 | 1,884.38 | 768.00 | 1,116.38 |
| Amount Owed | | | | | $8,292.00 |
| | | | **CLIFTON WALKER** | | |
| 1987/2d | $11.25 | 55.25 | $621.56 | - 0 - | $621.56 |
| 1987/3d | 11.25 | 372 | 4,185.00 | - 0 - | 4,185.00 |
| 1987/4th | 11.25 | 333.25 | 3,749.06 | - 0 - | 3,749.06 |
| 1988/1st | 11.25 | 167.5 | 1,884.38 | - 0 - | 1,884.38 |
| Amount Owed | | | | | $10,440.00 |
| | | | **HOMER JOHNSON** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | $382.33 | $211.61 |
| 1987/3d | 10.75 | 372 | 3,999.00 | 2,574.24 | 1,424.76 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | 2,306.09 | 1,276.35 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | 1,192.60 | 608.03 |
| Amount Owed | | | | | $3,520.75 |
| | | | **TERRY DEAN** | | |
| 1987/2d | $10.75 | 55.25 | $593.94 | - 0 - | $593.94 |
| 1987/3d | 10.75 | 372 | 3,999.00 | - 0 - | 3,999.00 |
| 1987/4th | 10.75 | 333.25 | 3,582.44 | - 0 - | 3,582.44 |
| 1988/1st | 10.75 | 167.5 | 1,800.63 | $1,308.18 | 492.45 |
| Amount Owed | | | | | $8,667.83 |
| | | | **LESTER LEE** | | |
| 1987/2d | $10.75 | 27.5 | $295.63 | $137.50 | $158.13 |
| 1987/3d | 10.75 | 145.5 | 1,564.13 | 727.50 | 836.63 |
| 1987/4th | 10.75 | 78 | 838.50 | 390.00 | 448.50 |
| 1988/1st | 10.75 | 129.5 | 1,392.13 | 647.50 | 744.63 |
| Amount Owed | | | | | $2,187.89 |
| | | | **ART BALLARD** | | |
| 1987/2d | $10.25 | 27.5 | $281.88 | - 0 - | $281.88 |
| 1987/3d | 10.25 | 145.5 | 1,491.38 | - 0 - | 1,491.38 |
| 1987/4th | 10.25 | 78 | 799.50 | - 0 - | 799.50 |
| 1988/1st | 10.25 | 129.5 | 1,327.38 | $529.50 | 797.88 |
| Amount Owed | | | | | $3,370.64 |
| | | | **HERB TULLOS** | | |
| 1987/2d | $10.75 | 27.5 | $295.63 | $220.00 | $75.63 |
| 1987/3d | 10.75 | 145.5 | 1,564.13 | 1,248.25 | 315.88 |
| 1987/4th | 10.75 | 78 | 838.50 | 730.86 | 107.64 |
| 1988/1st | 10.75 | 129.5 | 1,392.13 | 1,213.42 | 178.71 |
| Amount Owed | | | | | $677.86 |
| | | | **GENE LEMLEY** | | |
| 1987/2d | $9.75 | 27.5 | $268.13 | $52.16 | $215.97 |
| 1987/3d | 9.75 | 145.5 | 1,418.63 | 254.73 | 1,163.90 |
| 1987/4th | 9.75 | 78 | 760.50 | 136.47 | 624.03 |
| 1988/1st | 9.75 | 129.5 | 1,262.63 | - 0 - | 1,262.63 |
| Amount Owed | | | | | $3,266.53 |

*EXHIBIT 2*

| *Yr./Qtr.* | | *Hours* | *Gross Backpay* | *Interim Earnings* | *Net Backpay* |
|---|---|---|---|---|---|
| | | | **KELLY GROOMS** | | |
| 1987/2d | $9.75 | 27.5 | $268.13 | $165.00 | $103.13 |
| 1987/3d | 9.75 | 145.5 | 1,418.63 | - 0 - | 1,418.63 |
| 1987/4th | 9.75 | 78 | 760.50 | 468.00 | 292.50 |
| 1988/1st | 9.75 | 129.5 | 1,262.63 | 1,359.75 | - 0 - |
| Amount Owed | | | | | $1,814.26 |
| | | | **CHARLIE SMITH** | | |
| 1987/2d | $10.75 | 27.5 | $295.63 | $178.75 | $116.88 |
| 1987/3d | 10.75 | 145.5 | 1,564.13 | 945.75 | 618.38 |
| 1987/4th | 10.75 | 78 | 838.50 | 507.00 | 331.50 |
| 1988/1st | 10.75 | 129.5 | 1,392.13 | 1,295.00 | 97.13 |
| Amount Owed | | | | | $1,163.89 |
| | | | **ROBERT WINDLE** | | |
| 1987/2d | $11.25 | 27.5 | $309.38 | $247.50 | $61.88 |
| 1987/3d | 11.25 | 145.5 | 1,636.88 | 1,309.50 | 327.38 |
| 1987/4th | 11.25 | 78 | 877.50 | 702.00 | 175.50 |
| 1988/1st | 11.25 | 129.5 | 1,456.88 | 1,165.50 | 291.38 |
| Amount Owed | | | | | $856.14 |
| | | | **ALVIN LINZY** | | |
| 1987/2d | $11.25 | 27.5 | $309.38 | $160.60 | $148.78 |
| 1987/3d | 11.25 | 145.5 | 1,636.88 | 849.72 | 787.16 |
| 1987/4th | 11.25 | 78 | 877.50 | 455.52 | 421.98 |
| 1988/1st | 11.25 | 129.5 | 1,456.88 | 923.34 | 533.54 |
| Amount Owed | | | | | $1,891.46 |
| | | | **MARK RADAICH** | | |
| 1987/2d | $9.75 | 27.5 | $268.13 | $186.18 | $81.95 |
| 1987/3d | 9.75 | 145.5 | 1,418.63 | 985.04 | 433.59 |
| 1987/4th | 9.75 | 78 | 760.50 | 528.06 | 232.44 |
| 1988/1st | 9.75 | 129.5 | 1,262.63 | 752.40 | 510.23 |
| Amount Owed | | | | | $1,258.21 |
| | | | **GREGG J. BLAKE** | | |
| 1987/2d | $10.75 | 27.5 | $295.63 | $275.00 | $20.63 |
| 1987/3d | 10.75 | 145.5 | 1,564.13 | 1,455.00 | 109.13 |
| 1987/4th | 10.75 | 78 | 838.50 | 624.00 | 214.50 |
| 1988/1st | 10.75 | 129.5 | 1392.13 | 1,165.50 | 226.63 |
| Amount Owed | | | | | $570.89 |
| | | | **STEVE P. HOWE** | | |
| 1987/2d | $9.75 | 27.5 | $268.13 | - 0 - | $268.13 |
| 1987/3d | 9.75 | 145.5 | 1,418.63 | $1,062.00 | 356.63 |
| 1987/4th | 9.75 | 78 | 760.50 | 647.40 | 113.10 |
| 1988/1st | 9.75 | 129.5 | 1,262.63 | 357.00 | 905.63 |
| Amount Owed | | | | | $1,643.49 |

*EXHIBIT 3*

| *Employee* | *Backpay Due to Reduced Wages* | *Backpay Due to Termination or Delay in Recall* | *Medical Reimbursement* | *Total* |
|---|---|---|---|---|
| Mike Armstrong | $1,985.33 | $1,496.94 | - 0 - | $3,482.27 |
| Kenneth Dailey | 1,510.95 | - 0 - | - 0 - | 1,510.95 |
| Bobby Houtz | 1,614.00 | - 0 - | - 0 - | 1,614.00 |
| Albert Jones | 2,068.08 | - 0 - | - 0 - | 2,068.08 |
| Carl Jones | 777.01 | 6,549.44 | $554.83 | 7,881.28 |
| Frank Linzy | 1,718.44 | - 0 - | - 0 - | 1,718.44 |
| Wesley Qualls | 1,158.51 | - 0 - | - 0 - | 1,158.51 |
| Philip Thomas | 2,171.33 | - 0 - | - 0 - | 2,171.33 |
| Robert Williams | 2,207.27 | - 0 - | - 0 - | 2,207.27 |
| Donnie Keele | 1,705.19 | - 0 - | - 0 - | 1,705.19 |
| Kenneth Owens | 2,044.88 | 1,496.94 | - 0 - | 3,541.82 |
| John Radaich | - 0 - | 4,569.26 | - 0 - | 4,569.26 |
| Earl Franklin | - 0 - | 2,088.00 | - 0 - | 2,088.00 |
| James Hilburn | - 0 - | 3,517.94 | - 0 - | 3,517.94 |
| Johnny Paul Howe | - 0 - | 6,972.26 | - 0 - | 6,972.26 |
| Mike Stockton | - 0 - | 6,284.51 | - 0 - | 6,284.51 |
| Lynn Heller | - 0 - | 9,976.01 | - 0 - | 9,976.01 |
| Stanley O'Dell | - 0 - | 8,292.00 | - 0 - | 8,292.00 |
| Clifton Walker | - 0 - | 10,440.00 | - 0 - | 10,440.00 |
| Homer Johnson | - 0 - | 3,520.75 | - 0 - | 3,520.75 |
| Terry Dean | - 0 - | 8,667.83 | - 0 - | 8,667.83 |
| Lester Lee | - 0 - | 2,187.89 | - 0 - | 2,187.89 |
| Art Ballard | - 0 - | 3,370.64 | - 0 - | 3,370.64 |
| Herb Tullos | - 0 - | 677.86 | - 0 - | 677.86 |
| Gene Lemley | - 0 - | 3,266.53 | - 0 - | 3,266.53 |
| Kelly Grooms | - 0 - | 1,814.26 | - 0 - | 1,814.26 |
| Charles Smith | - 0 - | 1,163.89 | - 0 - | 1,163.89 |
| Robert Windler | - 0 - | 856.14 | - 0 - | 856.14 |
| Alvin Linzy | - 0 - | 1,891.46 | - 0 - | 1,891.46 |
| Mark Radaich | - 0 - | 1,258.21 | - 0 - | 1,258.21 |
| Gregg J. Blake | - 0 - | 570.89 | - 0 - | 570.89 |
| Steve P. Howe | - 0 - | 1,643.49 | - 0 - | 1,643.49 |
| Totals | $18,960.99 | $103,885.65 | $554.83 | $123,401.47 |